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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/759,830      | 01/20/2004  | Dale Richard Pate    |                     | 8024             |

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7590

09/10/2007

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| EXAMINER |
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RUHL, DENNIS WILLIAM

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| ART UNIT | PAPER NUMBER |
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3629

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09/10/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/759,830

Applicant(s)

PATE, DALE RICHARD

Examiner

Dennis Ruhl

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____                                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____   | 6) <input type="checkbox"/> Other: ____                           |

Applicant should take notice that the examiner has provided copies of all references used in this office action as a courtesy to the applicant. Copies of US patent documents are not normally provided in office actions. The examiner did this so that applicant would have copies at his disposal. The examiner takes notice that this is being prosecuted "pro-se" by the applicant with no legal counsel of record.

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claim 1, it is not clear what the actual method is that is being claimed. What specifically makes up the method and process that allows a shopper to do what is claimed. Just claiming the result that the method results in is not claiming anything specifically about the method that applicant is trying to patent. There must be some positively recited steps in the body of the claim that makes it clear what steps are covered by the method. Claim 2 is a good example of a claim that is much better in format and reads like a method claim should read. The claim is indefinite because it is not clear what the method is that is being claimed. The examiner has examined the claim as it is best understood.

For claim 2, the reference to "this inventions web site address" is not clear. No web site of any kind has been claimed in claim 1, so it is not clear what web site is being referred to here.

For claim 3, there is a period at the end of line 2. Is this where the claim ends? The examiner does not know what to make of lines 3-5. A claim is only allowed to be one sentence long, so it ends at the period of line 2. It is not clear if applicant is trying to claim the subject matter of lines 3-5 or not.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by the disclosure of Markopoulos et al. (20020184102).

Applicant is claiming an Internet based system that allows a shopper to view product inventories from different stores, and obtain pricing information about various products. The indications of prices are suggestions as to where to get the best price. While it is not very clear what the actual method is that is being claimed (see 112,2<sup>nd</sup> rejection), the invention as it is best understood by the examiner is disclosed in this reference. In paragraphs 3 and 4, there is discussion about what are called "shopbots". These are Internet based programs that collect product data from various merchants and makes it available to shoppers. This allows shoppers to review price comparisons

for various products sold by different merchants. Paragraph 4 specifically mentions prior art Internet web sites that offer this service. Markopoulos is also directed to this kind of system where an Internet web site is used. The concept of allowing shoppers to conduct price comparisons by using an Internet web site is known in the art. Paragraph 4 specifically mentions that fact that groceries are items that can be shopped for on the Internet by using some of these shopper price comparison web sites that are known in the art. This clearly involves the use of an Internet browser as is claimed in claim 2. As far as what is claimed in claim 3, the use of computers to disseminate product information and pricing information as disclosed by the reference inherently requires the use of databases as claimed. The databases are required to be able to store the data regarding the inventories of various merchants and the pricing information for various products. The system that is disclosed in the specification and claimed is already known in the prior art and is not a novel invention. The examiner has reviewed the entire disclosure and does not take notice of anything that would constitute allowable subject matter that can be considered novel.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dworkin (US 4992940) discloses a system that allows a shopper to do price comparisons by using a computer. This is very relevant to what is disclosed and claimed. The article "Kroger sues price-checking outfit" discloses that there was an attempt to start a web site where grocery store price comparisons were provided to customers by using the Internet. This is essentially what applicant has disclosed.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 571-272-6808. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DENNIS RUHL  
PRIMARY EXAMINER